

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

**FRANK TREADWAY, et al.,
Plaintiffs,**

**Civil Action No. 5:16-cv-12149
Honorable Irene C. Berger**

v.

**BLUESTONE COAL CORP.,
BLUESTONE INDUSTRIES, INC., and
MECHEL BLUESTONE, INC.
Defendants.**

JUDGMENT ORDER

Pending before the Court are Plaintiffs' Motion to Enforce Settlement (ECF Doc. # 43) and Notice for Entry of Judgment (ECF Doc. # 44). For the reasons set forth herein, the Court ENTERS judgment against the Defendants in the amount of **\$662,101.42** as of April 18, 2019, in addition to such further daily penalties as may accrue after this date, in lieu of the legal rate of interest, at the rate of \$1,000.00 per day that each payment to the common fund, class representatives, or class administrator is late, and incorporating by reference the March 5, 2019 Order of this Court, consistent with the agreement of the Parties, as follows:

1. On March 5, 2019, the Court entered a final order (ECF Doc. # 42) ("March 5 Order") setting forth and approving the terms of the settlement in this case.
2. The Defendants have failed to make complete payments according to the schedule agreed upon by the Parties and adopted in the March 5 Order and set forth in the Plaintiffs' Notice for Entry of Judgment (ECF Doc. # 44).
3. On March 28, 2019, the Defendants expressed their agreement to the judgment offered and proposed by the Plaintiffs in this matter in the Notice for Entry of Judgment (ECF Doc. # 44).

4. As of March 29, 2019, the Defendants had failed to pay \$331,433.75 that was then due under the March 5 Order.


5. Pursuant to the terms of the final settlement, the Defendants are also due to make another payment of \$260,667.67 to the common fund, and a payment of \$10,000.00 to the class representatives, on or before June 23, 2019, by cashier's checks to Mountain State Justice as class administrator, for conveyance to the class members in accordance with the Mediated Settlement Agreement (ECF Doc. #40-1) and the March 5 Order approving settlement (ECF Doc. # 42).

6. Daily penalties of \$1,000.00 per day continued to be assessed as to each additional day that each payment is late to the common fund, class representatives, or class administrator under the approved settlement.

7. As of April 18, 2019, the total sum outstanding under the settlement is **\$391,433.75 due immediately** and **\$270,667.67 due on or before June 23, 2019**, in addition to any further daily penalties assessed based on late payments.

WHEREFORE, for the foregoing reasons, the Court **ENTERS** judgment for all sums due under the March 5 Order and by order of this Court, **totaling \$662,101.42** as of April 18, 2019, in addition to such further daily penalties as may accrue thereafter at the rate of \$1,000.00 per day that each payment continues to be late. The Court further **ORDERS** that all pending motions be **TERMINATED AS MOOT**. Finally, the Court **DIRECTS** the Clerk to send a certified copy of this Order to counsel of record and to any unrepresented party.

ENTERED: April 18, 2019


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA

Prepared by:

/s/ Samuel B. Petsonk

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